

In the High Court of Punjab and Haryana at Chandigarh

Date of decision: 25.01.2010

1.CWP No.3223 of 1988

U.S. Bhankar and others Vs. State of Haryana and another

2. CWP No.3248 of 1988

KK Goyal and others Vs. State of Haryana and another

3.CWP No.3358 of 1988

J. S. Sihag and others Vs. State of Haryana and others

4. CWP No.1185 of 1988

Om Parkash Duhan Vs. State of Haryana and another

5. CWP No.8076 of 1988

PD Sharma and others Vs. State of Haryana

6. CWP No.7345 of 1989

Dr.Ramesh Kumar and others Vs. State of Haryana and others

CORAM: HON'BLE MR. JUSTICE PERMOD KOHLI

Present: Mr.RK Malik, Senior Advocate, with
Ms.Renu Chaudhary, Advocate.

Mr.RKS Brar, Addl. AG, Haryana.

PERMOD KOHLI, J. (Oral):

Heard the learned counsel for the parties at length.

The facts are taken from CWP No.3223 of 1988.

These petitions have been filed challenging the order
passed by the Director, Higher Education, Haryana, Chandigarh,

withdrawing the interim benefit earlier granted to the petitioners and consequential recovery. It appears that the petitioners working in various schools were granted benefit of interim relief with effect from 1.12.1985 on the pattern of the University Grants Commission Grades. The first instalment was released and thereafter on consideration of the matter, the impugned order dated 12.5.1987, Annexure P-3 (in CWP No.3223 of 1988) has been passed withdrawing the benefit/relief and the excess amount is sought to be recovered.

In the reply filed by the respondents it is stated that on the basis of the letters dated 2.8.1983 and 29.4.1985 issued from the Government of India, on the recommendation of 4th Pay Commission, the Government of Haryana sanctioned two instalments of interim relief. After disbursement of the first instalment and at the time of the disbursement of the second instalment, it came to the notice of the authorities that the payment has been made in violation of the instructions Annexure P-2. On that basis, impugned order came to be passed.

Mr.RK Malik, learned Senior Counsel appearing for the petitioners submits that he has instructions to say that the petitioners do not dispute the refixation of their pay or withdrawal of the benefit, but confine relief only to the recovery part.

From the reply, it appears neither fraud nor misrepresentation is attributed to the petitioners. It was only on the basis of the interpretation of the government instructions that the

amount was paid to the petitioners. The issue involved in the present writ petitions is squarely covered by a Full Bench judgment of this Court in the case of Budh Ram and others Vs. State of Haryana and others (CWP No.2799 of 2009) decided on 22.5.2009 wherein the following observations have been made:-

“We have, therefore, no hesitation in holding that in case the employees who are recipient of the benefits extended to them on an erroneous interpretation or application of any rule, regulation, circular and instructions have not been any way contributed to such erroneous interpretation or have they committed any fraud, misrepresentation, deception to obtain the grant of such benefit, the benefit so extended may be stopped for the future, but the amount already paid to the employees cannot be recovered from them.”

In view of the above, the present writ petitions are partly allowed while upholding the refixation/withdrawal of the relief, the recovery against the petitioners is hereby quashed. If any recovery pursuant to the impugned orders is made from the petitioners, the same shall be refunded to them within a period of four months. No costs.

A copy of this order be placed on the record of each connected file.

25.01.2010
BLS

(PERMOD KOHLI)
JUDGE

